

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

TITLE VI COMPLAINT PROCESS

SCOPE OF TITLE VI COMPLAINTS

The scope of Title VI covers all external NDDOT activities. Adverse impacts resulting in Title VI complaints can arise from many sources, including advertising, bidding, and contracts.

Complaints can originate from individuals or firms alleging inability to bid upon or obtain a contract with NDDOT for the furnishing of goods and/or services. Examples include advertising for bid proposals; prequalification or qualification; bid proposals and awards; selection of contractors, subcontractors, material and equipment suppliers, lessors, vendors, consultants, fee appraisers, universities, etc.; or the allocation of funding (FTA).

Complaints can originate as a result of project impacts on individuals or groups. For example, social and economic, traffic, noise, air quality, access, accidents, and failure to maintain facilities.

FORMAL TITLE VI COMPLAINT PROCEDURE

NDDOT's Title VI Policy, as outlined in its Title VI and Nondiscrimination Program, assures that no person or groups of persons shall, on the grounds of race, color, national origin, sex, age, disability/ handicap, or income status*, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by NDDOT, its recipients, subrecipients, and contractors. In addition, Executive Order 12898 (Environmental Justice) prohibits discrimination based on income status.

NDDOT uses the following detailed, internal procedures for prompt processing of all Title VI complaints received directly by any of its divisions or districts having responsibilities under Title VI. These procedures include but are not limited to:

1. Any person or groups of persons who believe they have been aggrieved by an unlawful discriminatory practice under Title VI may individually, or through a legally authorized representative, make and sign a complaint and file the complaint with the North Dakota Department of Transportation Title VI Liaison Officer. Allegations received do not have to use the key words "complaint," "civil rights," "discrimination," or their near equivalents. It is sufficient if such allegations imply any form of unequal treatment in one or more of NDDOT's programs for it to be considered and processed as an allegation of a discriminatory practice.

2. The complaint must be filed, in writing, no later than 180 calendar days after the date of the alleged discrimination. NDDOT's Title VI Complaint Form (SFN 51795) must be used.
3. The complaint may also be filed with the U.S. Department of Transportation, **Office of the Secretary, 1200 New Jersey Avenue, SE (S-33)**, Washington, D.C. 20590. The complaint must be filed, in writing, no later than 180 calendar days after the date of the alleged discrimination, unless the time for filing is extended by the Secretary of the U.S. Department of Transportation.
4. Upon receipt of a Title VI complaint, the Title VI Liaison Officer immediately advises the NDDOT Director of the complaint. The Director confers with the appropriate NDDOT Deputy Director, appropriate NDDOT Office Director, and the Title VI Liaison Officer to determine a course of action. Possible courses of action may include but are not limited to:
 - a. Title VI complaints filed against NDDOT are referred to the Federal Highway Administration (FHWA) Division Office for processing.
 - b. Title VI complaints filed against NDDOT recipients and subrecipients (e.g., contractors, subcontractors, material and equipment suppliers, lessors, vendors, consultants, fee appraisers, universities, etc.) are processed by NDDOT in accordance with the FHWA approved complaint procedures as required under 23 Code of Federal Regulations Part 200.
 - c. A copy of the complaint, together with a copy of NDDOT's report of the investigation and recommendations, are forwarded to the FHWA Division Office within 60 days of the date the complaint was received by NDDOT.
 - d. The FHWA Headquarters Office of Civil Rights makes the final agency decision.
5. The NDDOT Director reviews and determines the appropriate action regarding every complaint. NDDOT will recommend, to the FHWA Division Office, not to proceed with or continue a complaint investigation if:
 - a. The complaint is, on its face, without merit.
 - b. The same allegations and issues of the complaint have been addressed in a recently closed investigation or by previous federal court decisions.
 - c. The complainant's or injured party's refusal to cooperate (including refusal to give permission to disclose his or her identity) has made it impossible to investigate further.

6. If an investigation is to be initiated, the NDDOT Director designates a specific NDDOT Deputy Director to whom the investigation team will report in order to facilitate communication with the Director. The Deputy Director and NDDOT Office Director confer with the Title VI Liaison Officer and NDDOT Legal Counsel to establish guidelines for the investigation team. The Title VI Liaison Officer is instructed to appoint a team leader and an on-call team member to conduct the investigation. The team leader apprises the Deputy Director of the team's progress throughout the investigation.
7. The team leader determines the timeframe in which the investigation should be completed based on the date the complaint was filed. The entire investigation process, including the submission of the report of the investigation and recommendations to the FHWA Division Office, is to be carried out in a period not to exceed sixty (60) calendar days from the date the original complaint was received by NDDOT.
8. The Title VI Liaison Officer acknowledges receipt of the allegation(s) within ten (10) working days. The complainant is notified of the proposed action to be taken to process the allegation(s). The notification letter contains:
 - a. The basis for the complaint.
 - b. A brief statement of the allegation(s) over which NDDOT has jurisdiction.
 - c. A brief statement of NDDOT's jurisdiction over the recipient to investigate the complaint; and
 - d. An indication of when the parties will be contacted.
 - e. Depending on the nature of the complaint, the complaint will be referred to the following for final decision:
 - (1) Federal Highway Administration (FHWA)
 - (2) U. S. Department of Justice (USDOJ)
9. The Title VI Liaison Officer also notifies the FHWA Division Office within ten (10) calendar days of receipt of the allegations. The following information is included in the notification to FHWA:
 - a. Name, address, and phone number of the complainant.
 - b. Name(s) and address(es) of persons alleged to have been involved in the act.

- c. Basis of alleged discrimination (i.e., race, color, national origin, sex, age, disability/handicap, or income status*).
 - d. Date of alleged discriminatory act(s).
 - e. Date complaint was received by NDDOT.
 - f. A brief statement concerning the nature of the complaint.
 - g. Other agencies (federal, state, or local) with which the complaint has been filed.
 - h. An explanation of the actions NDDOT proposes to take to resolve the issues raised in the complaint.
- 10. The investigation team leader notifies the Director-Engineer of the division or district in which the problem occurred that a complaint has been received. The team leader identifies the members of the investigation team and accepts relevant comments from the Division or District Director-Engineer.
 - 11. The investigation team conducts an in-depth, personal interview with the complainant(s). Information gathered in this interview includes: identification of each complainant by race, color, national origin, sex, age, disability/handicap, or income status*; name of the complainant; a complete statement concerning the nature of the complaint, including names, dates, places, and incidents involved in the complaint; the date the complaint was filed; and any other pertinent information the investigation team feels is relevant to the complaint. The interviews are recorded either on audio tape or by a team member taking notes. The team arranges for the complainant to read, make necessary changes to, and sign the interview transcripts or interview notes.
 - 12. Following the interviews, the team leader develops a report of the investigation and recommendations based on the facts. The report contains the investigation team's findings, conclusions concerning each issue raised in the complaint, and recommendations for corrective action. The report is completed with the coordination and consultation of NDDOT's General Counsel. The report is the last document prepared as part of the investigation. Any other actions taken as a result of the investigation team's findings and conclusions are the responsibility of NDDOT management.
 - 13. The complainant receives a letter from the NDDOT Director detailing the findings and any recommendations for corrective action to be taken based on the facts. All issues in the complaint are addressed. The complainant is informed that the final determination is made by the FHWA Headquarters Office of Civil Rights.

14. The NDDOT Director forwards the report of the investigation and recommendations to the FHWA Division Office. Included with the report is a copy of the complaint, copies of all documentation pertaining to the complaint, the date the complaint was filed, the date the investigation was completed, and any other pertinent information.
15. The FHWA Headquarters Office of Civil Rights makes the final agency decision.

INFORMAL TITLE VI COMPLAINT PROCEDURE

1. Title VI complaints may be resolved by informal means. When informal means are used, the complainant is informed of his or her right to file a formal written complaint.
2. Such informal attempts and their results are summarized by the Director-Engineer of the division or district in which the problem occurred, or by their respective Title VI Specialist, and are forwarded to the Title VI Liaison Officer.
3. Any complaint received in writing is considered to be a formal complaint and is handled under the formal complaint procedure outlined above.
4. The Title VI Liaison Officer periodically informs the FHWA Division Office of the status of all complaints.
5. When a complaint has been directly filed with another federal or state agency, the Title VI Liaison Officer is to be informed by the agency where the complaint has been filed and is to coordinate any action needed by NDDOT to resolve the complaint.

* Title VI of the Civil Rights Act of 1964 governs race, color, and national origin. Related Nondiscrimination Authorities govern sex, 23 U.S.C. 324; age, 42 U.S.C. 6101; disability/handicap, 29 U.S.C. 790; and low income, E.O. 12898.